

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re:  FAIRFIELD SENTRY LIMITED, et al.,  Debtor in Foreign Proceedings.	Chapter 15 Case  Case No. 10-13164 (CGM)  Jointly Administered
FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al.,  Plaintiffs,  v.  ABN AMRO SCHWEIZ AG, et al.,  Defendants.	Adv. Pro. No. 10-03635 (CGM)
FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al.,  Plaintiffs,  v.  ABN AMRO SCHWEIZ AG, et al.,  Defendants.	Adv. Pro. No. 10-03636 (CGM)

**DECLARATION OF JOSHUA S. MARGOLIN IN SUPPORT OF THE LIQUIDATORS'  
MOTION FOR SANCTIONS UNDER RULE 37(e) AGAINST BNP PARIBAS (SUISSE)**

**SA**

I, Joshua S. Margolin, do hereby declare, under penalty of perjury under the laws of the United States of America, that the following is true and correct to the best of my knowledge and belief:

1. I am a member of the law firm of Selendy Gay Elsberg PLLC, counsel for Kenneth M. Krys and Greig Mitchell (together, the “Liquidators”) in their capacities as the duly appointed Liquidators and Foreign Representatives of Fairfield Sentry Limited (In Liquidation), Fairfield Sigma Limited (In Liquidation), and Fairfield Lambda Limited (In Liquidation). I submit this Declaration in support of the Liquidators’ motion for sanctions against BNP Paribas Suisse (SA) (“Defendant”) under Federal Rule of Civil Procedure 37(e) as made applicable to this proceeding by Rule 7037 of the Federal Rules of Bankruptcy Procedure (the “Motion”), filed contemporaneously herewith.

2. Unless otherwise noted, all exhibits attached to this declaration have been filed under seal pursuant to the pending Joint Motion to File Under Seal Motion for Sanctions and Certain Exhibits filed concurrently herewith.

3. Attached as Exhibit 1 is a true and correct copy of the transcript of the Rule 30(b)(6) Deposition of BNP Paribas (Suisse) SA, dated December 15, 2022, with errata sheet, dated January 17, 2023, (the “Rule 30(b)(6) Deposition”).

4. Attached as Exhibit 2 is a true and correct copy of a letter from Ari MacKinnon to Joshua Margolin, dated December 14, 2022. The Liquidators file Exhibit 2 on the docket and not under seal.

5. Attached as Exhibit 3 is a true and correct copy of BNP Paribas Defendants’ Supplemental Responses and Objections to the Plaintiffs’ First Set of Interrogatories to the BNP Paribas Defendants, dated May 31, 2022, and marked as Exhibit 2 to the Rule 30(b)(6) Deposition. The Liquidators file Exhibit 3 on the docket and not under seal.

6. Attached as Exhibit 4 is a true and correct copy of a summary of Defendant's prepared testimony on the topics in the Liquidators' Notice of Deposition, dated December 8, 2022, which was produced to the Liquidators by Defendant as BNP\_SUISSE\_FF\_02448.

7. Attached as Exhibit 5 is a true and correct copy of an email exchange, dated May 29, 2007, which was produced to the Liquidators by non-party Fairfield Greenwich Group ("FGG") as FG-04489261, and marked as Exhibit 6 to the Rule 30(b)(6) Deposition.

8. Attached as Exhibit 6 is an English language version of a true and correct copy of an email exchange and an attachment, dated May 29, 2007, which was produced to the Liquidators by non-party FGG as FG-04526780, FG-04526781, and FG-04526783, accompanied by a certificate of translation from the original Spanish version. The original Spanish language version is attached hereto as Exhibit 6-1. The version marked as Exhibit 7 to the Rule 30(b)(6) Deposition, which inadvertently omitted the email exchange's second attachment, FG-04526783, is attached hereto as Exhibit 6-2.

9. Attached as Exhibit 7 is a true and correct copy of an email exchange, dated August 27, 2008, which was produced to the Liquidators by non-party Citco Fund Services as ANWAR-CFSE-00481576.

10. Attached as Exhibit 8 is an English language version of a true and correct copy of an email exchange and attachments, dated February 23, 2007, which was produced to the Liquidators by non-party FGG as FG-05624065 and FG-05624066, accompanied by a certificate of translation from the original Spanish version. The original Spanish language version has been attached hereto as Exhibit 8-1.

11. Attached as Exhibit 9 is a true and correct copy of an email exchange and attachments, dated April 11, 2008, which was produced to the Liquidators by non-party FGG as FG-05794189, FG-05794191, and FG-05794192.

12. Attached as Exhibit 10 is a true and correct copy of an email exchange, dated August 7, 2006, which was produced to the Liquidators by non-party Citco Fund Services as ANWAR-C-ESI-00702261.

13. Attached as Exhibit 11 is a true and correct copy of Plaintiffs' First Request for Production of Documents to the BNP Paribas Defendants, dated August 18, 2021. The Liquidators file Exhibit 11 on the docket and not under seal.

14. Attached as Exhibit 12 is a true and correct copy of an email exchange, dated May 23, 2011, which was produced to the Liquidators by Defendant as BNP\_SUISSE\_FF\_01447, and marked as Exhibit 4 to the Rule 30(b)(6) Deposition.

15. Attached as Exhibit 13 is a true and correct copy of an email exchange and an attachment, dated October 24, 2013, which was produced to the Liquidators by Defendant as BNP\_SUISSE\_FF\_01451 and BNP\_SUISSE\_FF\_01455, and marked as Exhibit 5 to the Rule 30(b)(6) Deposition.

16. Attached as Exhibit 14 is a true and correct copy of the BNP Paribas Chronology of Madoff Liquidator Litigation, dated November 26, 2022, which was produced to the Liquidators by Defendant as BNP\_SUISSE\_FF\_02325.

17. Attached as Exhibit 15 is a true and correct copy of a BNP Paribas Press Release, dated December 14, 2008, which was produced to the Liquidators by third party BNP Paribas Securities Services Luxembourg ("BNP SSL") as BNP2SL\_FF\_01166.

18. Attached as Exhibit 16 is a true and correct copy of a BNP Paribas Press Release, dated December 16, 2008, which was produced to the Liquidators by third party BNP SSL as BNP2SL\_FF\_01168.

19. Attached as Exhibit 17 is a true and correct copy of a document titled Pseudonymized Recipients of Produced BNPP Suisse Litigation Holds, dated December 2, 2022, which was produced to the Liquidators by Defendant as BNP\_SUISSE\_FF\_02333.

20. Attached as Exhibit 18 is a true and correct copy of Appendix A to the Liquidators' letter filed with this Court in Case No. 10-ap-03636 on October 14, 2022 (Dkt. 1033-1), dated October 14, 2022. The Liquidators file Exhibit 18 on the docket and not under seal.

21. Attached as Exhibit 19 is a true and correct copy of information Defendant provided to the Liquidators regarding the individuals identified in emails attached to Liquidators' October 14, 2022 letter to this Court, dated December 12, 2022, which was produced to the Liquidators by Defendant as BNP\_SUISSE\_FF\_02589.

22. Attached as Exhibit 20 is a true and correct copy of Defendant's Initial Disclosures to the Liquidators in Case No. 10-ap-03635, dated November 1, 2021. The Liquidators file Exhibit 20 on the docket and not under seal.

23. Attached as Exhibit 21 is a true and correct copy of Defendant's Initial Disclosures to the Liquidators in Case No. 10-ap-03636, dated November 1, 2021. The Liquidators file Exhibit 21 on the docket and not under seal.

24. Attached as Exhibit 22 is a true and correct copy of Plaintiffs' Notice of Rule 30(b)(6) Deposition to Defendant, dated October 18, 2022, and marked as Exhibit 1 to the Rule 30(b)(6) Deposition. The Liquidators file Exhibit 22 on the docket and not under seal.

25. Attached as Exhibit 23 is a true and correct copy of a transcript of the status conference held before this Court in the above-captioned adversary proceeding on September 14, 2022. The Liquidators file Exhibit 23 on the docket and not under seal.

26. Attached as Exhibit 24 is a true and correct copy of information Defendant provided to the Liquidators regarding the individuals identified in emails attached to Liquidators' October 14, 2022 letter to this Court, dated December 12, 2022, which was produced to the Liquidators by Defendant as BNP\_SUISSE\_FF\_02592.

Dated: New York, New York  
January 20, 2023

/s/

*Joshua S. Margolin*

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Joshua S. Margolin